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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF:

Weimken et al.

Grp. Art. Unit: 3747

Application No: 10/631,291

Date: April 19, 2005

Filed: July 31, 2003

Examiner: Gimie, M.

VARIABLE CONTROL ORIFICE
MEMBER AND FUEL INJECTOR
USING SAME

Atty Docket: 00-197

RESPONSE TO OFFICE ACTION

In response to the Office Action dated January 21, 2005, please consider the following remarks. Reconsideration of the present application is respectfully requested.

Claims 1-20 stand rejected under 35 USC §102(e) over Crofts et al. Applicants respectfully disagree since Crofts et al. does not show what Applicants have claimed. There should be no dispute that the MPEP and relevant case law require that a reference show exactly what an Applicant has claimed in order to support a §102 rejection. In this case, Crofts et al. simply shows another version of needle control that includes A and Z orifices with a two way drain control valve. However, that is not what Applicants have claimed, nor can Applicants' claim language be misread onto references of the type typified by Crofts et al. In particular, Applicants claims require that the needle valve member displace fluid through a restricted passage when moving from its closed position to its open position, and requires flow to the closing hydraulic surface of the needle valve member via an unrestricted flow area over a portion of the needle valve member's movement from its open position to its closed position. The A and Z orifices of Crofts would be incapable of meeting this claim requirement. See Crofts et al. at column 9, lines 8-12. Since fluid never flows to the Crofts et al. closing hydraulic surface through anything that can be fairly characterized as unrestricted relative to flow away from its pressure control chamber, Applicants' claims can not be fairly misread onto to Crofts et al. Therefore, Applicants respectfully request that all of the outstanding §102(e) rejections be withdrawn.

I certify that this paper or fee was mailed with sufficient postage via first class mail on the 19th day of April, 2005 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; Name Printed : Carrie Stremming; Signature *Carrie Stremming*